

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

TYLER A. VALDEZ,

Plaintiff,

v.

8:20-CV-0035
(GTS/DJS)

SOCIAL SECURITY ADMINISTRATION,

Defendant.

APPEARANCES:

TYLER A. VALDEZ
Plaintiff, *Pro Se*
2091 Plumbrook Road
Norfolk, New York 13667

GLENN T. SUDDABY, Chief United States District Judge

AMENDED DECISION and ORDER

Currently before the Court, in this *pro se* action filed by Tyler A. Valdez (“Plaintiff”) against the Social Security Administration (“Defendant”) asserting claims under the Americans with Disabilities Act, is United States Magistrate Judge Daniel J. Stewart’s Report-Recommendation recommending Plaintiff’s Complaint be *sua sponte* dismissed without prejudice and with leave to amend for failure to state a claim upon which relief may be granted. (Dkt. No. 5.) Plaintiff has not filed an Objection to the Report-Recommendation, and the deadline in which to do so has expired. (*See generally* Docket Sheet.)

After carefully reviewing the relevant papers herein, including Magistrate Judge Stewart’s thorough Report-Recommendation, the Court can find no clear-error in the Report-

Recommendation.¹ Magistrate Judge Stewart employed the proper standards, accurately recited the facts, and reasonably applied the law to those facts. As a result, the Report-Recommendation is accepted and adopted in its entirety for the reasons set forth therein, and Plaintiff's Complaint shall be dismissed with prejudice unless, within thirty days of the date of this Decision and Order, Plaintiff files an Amended Complaint that corrects the pleading defects in his original Complaint.

ACCORDINGLY, it is

ORDERED that Magistrate Judge Stewart's Report-Recommendation (Dkt. No. 5) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further


ORDERED that Plaintiff's Complaint (Dkt. No. 1) shall be **DISMISSED** with prejudice **UNLESS, within THIRTY (30) DAYS** of the date of this Decision and Order, Plaintiff files as Amended Complaint that corrects the pleading defects identified in the Report-Recommendation; and it is further

ORDERED that, should Plaintiff not file an Amended Complaint within thirty days of the date of this Decision and Order, Plaintiff's Complaint shall be dismissed with prejudice without further Order of the Court; and it is further

ORDERED that, should Plaintiff file an Amended Complaint, it shall be referred to Magistrate Judge Stewart for his review pursuant to 28 U.S.C. § 1915(e).

¹ When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a clear error review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a "clear error" review, "the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Id.*; see also *Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at *1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) ("I am permitted to adopt those sections of [a magistrate judge's] report to which no specific objection is made, so long as those sections are not facially erroneous.") (internal quotation marks omitted).

Dated: October 19, 2021
Syracuse, New York



Hon. Glenn T. Suddaby
Chief U.S. District Judge